

REMARKS

The Office Action mailed September 7, 2004 has been received and carefully considered. Claims 84-92 are pending in the application. Claims 84-92 stand rejected. Claims 84 and 91 stand rejected under 35 U.S.C. § 112, second paragraph as assertedly indefinite for failing to particularly point out and distinctly claim the invention. Claims 84 and 89-92 stand rejected under 35 U.S.C. § 102(b) as assertedly anticipated by U.S. Patent 4,601,545 to Kern (Kern). Claims 84-88 and 90-92 stand rejected under 35 U.S.C. § 102(e) as assertedly anticipated by U.S. Patent 6,774,871 to Birdwell (Birdwell). Claims 85-88 stand rejected under 35 U.S.C. § 103(a) as assertedly obvious over Kern in view of Birdwell. Applicants respectfully traverse the rejections and request reconsideration in view of the following remarks.

I. Amendments to the Claims

Claims 84, 86, 88 and 91 have been amended. Support for the amendments is found throughout the specification as originally filed. No new matter is presented. Claims 85 and 93 have also been cancelled.

II. Restriction Requirement

Applicants acknowledge that the Examiner has made final the Restriction Requirement mailed May 25, 2004. Claims 1-83, directed to non-elected subject matter, have been cancelled without prejudice. Applicants reserve the right to file one or more divisional applications directed to these claims.

III. Information Disclosure Statement

The Examiner has stated that the large number of references provided are cumulative. *See* Office Action at page 3. Applicants appreciate the Examiner's statement that the references are largely cumulative. While Applicants agree that the cited references are voluminous and in

some respects may be cumulative, Applicants also respectfully submit that they are aware of a large number of references. Applicants have presented the references cited in the Information Disclosure Statements to the Patent Office in Applicants' attempt to ensure they have met their duty of disclosure under 37 C.F.R. § 1.56.

IV. Rejection under 35 U.S.C. § 112, 2nd paragraph

Claims 84 and 91 stand rejected under 35 U.S.C. § 112, second paragraph as assertedly indefinite for failing to particularly point out and distinctly claim the invention. Specifically, the Examiner has stated that the phrase "alignment layer" renders the claims vague and indefinite.

Applicants respectfully submit that the phrase "alignment layer" is readily understood by those of ordinary skill in the art to refer to aligning molecules of an electro-active material latitudinally or longitudinally, which, when used in Applicants' claimed invention may, for example, accommodate the proper astigmatic axis location of a single vision lens optic. Thus, the phrase "alignment layer" is definite because those of ordinary skill in the art would readily appreciate the metes and bounds of the claimed invention. Nevertheless, to expedite the prosecution of the application, Applicants have amended the claims to more fully describe the alignment layer.

V. Rejection under 35 U.S.C. § 102(b) by Kern

Claims 84 and 89-92 stand rejected under 35 U.S.C. § 102(b) as assertedly anticipated by U.S. Patent 4,601,545 to Kern (Kern). Applicants respectfully traverse the rejection.

Kern fails to anticipate Applicants' claimed invention because, at the very least, Kern fails to disclose a plurality of conductive electrode grids or arrays comprising a plurality of elements, wherein each grid or array element is an electrode much less that each electrode is isolated from other electrodes by an insulating material. As shown in Figure 2 of Kern and

discussed in more detail at column 4, the electrodes described in Kern are described as horizontal and vertical electrodes, denoted by reference numbers 73c and 75c respectively.

Kern does not teach that each element of the array or grid is an electrode. In fact, Kern clearly teaches and shows that the electrodes “appear” to intersect at a cross point, shown as 78c in Figure 2. See Kern, col. 4, line 32. Kern does not teach, disclose or suggest that the cross points, i.e. the grid elements, are electrodes as found in Applicants’ claimed invention.

Thus, as Kern fails to teach and every claim limitation, either expressly or inherently, Kern does not anticipate Applicants’ claimed invention.

VI. Rejection under 35 U.S.C. § 102(e) by Birdwell

Claims 84, 86-88 and 90-92 stand rejected under 35 U.S.C. § 102(e) as assertedly anticipated by U.S. Patent 6,774,871 to Birdwell (Birdwell). Applicants respectfully traverse the rejection.

At the very least, Birdwell fails to teach a plurality of conductive electrode grids or arrays comprising a plurality of elements, wherein each grid or array element is an electrode, wherein each electrode is isolated from other electrodes by an insulating material. As shown in Figures 13A and 13C of Birdwell and as described in more detail therein at col. 16, lines 11-54, Birdwell shows a series of input lines 158 that connect to a series of parallel spaced electrodes 146 after the input lines have passed over other input lines. Birdwell appears to only teach that the “interconnection section” 116, described as the section between the input lines 158 and the electrodes 146, is insulated. As best can be determined from Birdwell’s description in column 16 and from Figure 13C, the interconnection section is insulated from the input lines over which it passes by insulation 166. Applicants note that reference number 116 referred to in Figure 13C

is entirely absent and that reference number 166 appears to point to the input lines passing underneath what is believed to be the interconnection section as described in col. 16 of Birdwell.

Birdwell does not teach that the electrodes themselves are separated by an insulating material as they lie on the substrate 148, only that the electrodes are at least as long as the diameter of the beam of light to be steered. See Birdwell, col. 16, lines 16-18.

Furthermore, Applicants respectfully submit that the devices of Birdwell are primarily directed to steering light beams as discussed at col. 15, lines 53-54 and that the design of light beam steering devices would not necessarily involve the same motivation or designs as a multi-focal lens designed to assist in the measurement or correction of vision.

Thus, as Birdwell fails to teach and every claim limitation, either expressly or inherently, Birdwell does not anticipate Applicants' claimed invention.

VII. Rejection under 35 U.S.C. § 103(a) over Kern in view of Birdwell

Claims 86-88 stand rejected under 35 U.S.C. § 103(a) as assertedly obvious over Kern in view of Birdwell.

Claims 86-88 each depend from independent claim 84. Thus, at the very least, because neither Kern nor Birdwell, alone or in combination, teach, disclose, or suggest each and every element of claim 84 which requires a plurality of conductive electrode grids or arrays comprising a plurality of elements, wherein each grid or array element is an electrode, wherein each electrode is isolated from other electrodes by an insulating material, claims 86-88 are also not obvious.

Thus, as a prima facie case of obviousness has not been presented and the rejection should be withdrawn.

CONCLUSION

For at least these reasons, Applicants respectfully submit that claims 84-92 are in condition for allowance and the Application should be allowed and passed to issue. In the event any outstanding issues remain, Applicants would appreciate the courtesy of a telephone call to Applicants' undersigned representative to resolve such issues in an expeditious manner.

This Amendment/Response is filed within three months of the mailing date of the Office Action and it is believed that no additional fees are due. In the event Applicants are mistaken in their calculations, the Commissioner is authorized to charge any fees that may be determined to be due to the undersigned's Deposit Account No. 08-3436.

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Respectfully submitted,



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